

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KAREEM AL-JAML YOUNG,
Petitioner,
v.
B. M. TRATE,
Respondent.

Case No. 1:23-cv-00055-TLN-CDB (HC)

FINDINGS AND RECOMMENDATIONS TO
DISMISS PETITION FOR WRIT OF HABEAS
CORPUS FOR LACK OF JURISDICTION

(Doc. 1)

21-day Deadline

Petitioner Kareem Al-Jaml Young (“Petitioner”) is a federal prisoner proceeding pro se and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.¹ Petitioner seeks review of his custody and vacatur of the judgment and sentence imposed on him by the United States District Court for the Northern District of Alabama.

Background

On July 28, 2020, Petitioner was charged by superseding indictment with one count (“Count One”) of violation of 18 U.S.C. § 922(g)(1) - Possession of a Firearm by a Prohibited Person. *See United States v. Young*, No. 7:17-cr-00522-AMM-HNJ (N.D. Ala.) [Doc. 76].² On April 15, 2021,

¹ At the time he commenced this action, Petitioner was housed at USP-Atwater, in the Eastern District of California. *See* (Doc. 1 at 17).

² Petitioner was charged with the same offense in the original indictment, to which he pleaded guilty but subsequently was permitted to withdraw his plea. This and other aspects of the earlier

1 Petitioner entered a guilty plea to Count One. (Docket entry dtd. 4/15/2021). On May 25, 2021,
 2 Petitioner appeared for sentencing on Count One and was sentenced to 188 months to run concurrently
 3 with two state court-imposed judgments. (Docket entry dtd. 5/25/2021; Doc. 135). In connection with
 4 Petitioner's sentencing, the district court rejected Petitioner's argument that he did not have three prior
 5 convictions for crimes of violence or serious drug offenses for purposes of the Armed Career Criminal
 6 Act ("ACCA"). (Doc. 179-1 at 17). Specifically, the district court found that the ACCA sentencing
 7 enhancement applied because Petitioner's two Alabama robbery convictions and his conviction for
 8 unlawful distribution of a controlled substance qualified as predicate offenses under the ACCA. *Id.*

9 In his direct appeal, Petitioner did not challenge any aspect of his conviction or argue that he
 10 did not qualify for sentencing under the ACCA, as he had in the district court. Instead, he raised only
 11 the issue of whether the district court erred when it refused to let retained counsel withdraw prior to
 12 sentencing. *Id.* at 18. In an unpublished, per curiam opinion issued September 25, 2023, the Eleventh
 13 Circuit Court of Appeals rejected Petitioner's challenge and affirmed the district court's conviction
 14 and sentence. *See generally United States v. Young*, No. 21-11907, 2023 WL 6213488 (11th Cir. Sept.
 15 25, 2023).

16 Before the Eleventh Circuit issued its order on Petitioner's direct appeal and before filing in
 17 the Northern District of Alabama any motion to vacate sentence pursuant to 28 U.S.C. § 2255, on
 18 January 12, 2023, Petitioner filed the instant § 2241 petition in this Court.

19 Petitioner initiated in the Northern District of Alabama his now-pending first, supplemental,
 20 and amended motions to vacate sentence pursuant to 28 U.S.C. § 2255, filed November 4 and
 21 November 18, 2024, and April 11, 2025, respectively. *See Young v. United States*, No. 7:24-cv-
 22 08024-AMM (N.D. Ala.) (the "§ 2255 Action") [Docs. 1, 4, 16]. In his original and supplemented §
 23 2255 motions, Petitioner argues that he is "actually innocent" of the ACCA sentencing enhancement
 24 in that his prior state law conviction for robbery no longer qualifies as an ACCA-eligible predicate
 25 "violent felony." *See* the § 2255 Action [Docs. 1, 4]. In support of his argument, Petitioner relies on
 26 the U.S. Supreme Court's opinion in *Erlinger v. United States*, 602 U.S. 821 (2024), and a decision of
 27

28 proceedings in Petitioner's underlying criminal case are not at issue in this habeas corpus proceeding
 and, thus, not recounted herein.

1 the Ninth Circuit Court of Appeals' issued prior to Petitioner's sentencing, *United States v. Walton*
 2 (881 F.3d 768, Feb. 1, 2018). In his more recent amended motion, Petitioner asserts additional claims
 3 in support of habeas relief, including that his sentence runs afoul of *New York State Rifle & Pistol*
 4 *Assoc. v. Bruen*, that his attorney during sentencing was ineffective, and that the sentencing judge was
 5 biased. *See* the § 2255 Action [Doc. 16].

6 Notably, Petitioner has not raised in any of his § 2255 motions any challenge that his
 7 conviction for unlawful distribution of a controlled substance qualified as a predicate offense under the
 8 ACCA.

9 **Petitioner's Claims**

10 In the instant petition, Petitioner argues that he is "actually innocent" of the ACCA sentencing
 11 enhancement in that his prior state law conviction for unlawful distribution of controlled substances
 12 (cocaine) did not qualify as an ACCA-eligible predicate "serious drug offense." (Doc. 1 at 2-3).³ In a
 13 filing titled "Supplemental Information" dated March 25, 2024, Petitioner cites additional cases in
 14 support of his argument concerning his prior state law conviction for unlawful distribution of
 15 controlled substances, and purports to assert three additional "Grounds" for relief that he raises in the
 16 § 2255 Action, including the claim pursuant to the Supreme Court's *Erlinger* decision. (Doc. 15). In
 17 his most recent filing, dated September 14, 2024, and titled "2241 Supplemental Information" (Doc.
 18 17), Petitioner again advances the *Erlinger* decision as a basis for habeas relief in this Court.

19 **Preliminary Screening Requirement**

20 Rule 4 of the Rules Governing § 2254 Cases requires the Court to conduct a preliminary
 21 review of each petition for writ of habeas corpus.⁴ Pro se habeas corpus petitions are to be liberally
 22 construed. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). However, the Court must dismiss a
 23 petition "[i]f it plainly appears from the petition...that the petitioner is not entitled to relief." Habeas
 24 Rule 4; *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990). Habeas Rule 2(c) requires that a
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 26

27 ³ References to Petitioner's petition and related filings cite the CM/ECF-assigned page
 number.

28 ⁴ The Rules Governing § 2254 cases in the United States Courts (Habeas Rules) are
 appropriately applied to proceedings undertaken pursuant to 28 U.S.C. § 2241. Habeas Rule 1(b).

1 petition 1) specify all grounds of relief available to the Petitioner; 2) state the facts supporting each
2 ground; and 3) state the relief requested. Notice pleading is not sufficient; rather, the petition must
3 state facts that point to a real possibility of a constitutional error. *Mayle v. Felix*, 545 U.S. 644, 655
4 (2005) (“Habeas Corpus Rule 2(c) is more demanding”). Allegations in a petition that are vague,
5 conclusory, or palpably incredible are subject to summary dismissal. *Hendricks*, 908 F.2d at 491. A
6 petition for habeas corpus should not be dismissed without leave to amend “unless it appears that no
7 tenable claim for relief can be pleaded were such leave to be granted.” *Jarvis v. Nelson*, 440 F.2d 13,
8 14 (9th Cir. 1971) (per curiam).

9 **Jurisdiction**

10 In general, a federal prisoner who wishes to challenge the validity or constitutionality of his
11 federal conviction or sentence must do so by way of a motion to vacate, set aside, or correct the
12 sentence under 28 U.S.C. § 2255. *Stephens v. Herrera*, 464 F.3d 895, 897 (9th Cir. 2006), cert.
13 denied, 549 U.S. 1313 (2007); *Tripati v. Henman*, 843 F.2d 1160, 1162 (9th Cir. 1988). In such cases,
14 only the sentencing court has jurisdiction. *Tripati*, 843 F.2d at 1163; *Hernandez v. Campbell*, 204
15 F.3d 861, 864 (9th Cir. 2000).

16 At the time Petitioner filed his petition, courts recognized an exception to this general rule by
17 which a federal prisoner could challenge the validity or constitutionality of his federal conviction or
18 sentence under § 2241, referred to as the “savings clause” or “escape hatch” of § 2255, with the filing
19 of a § 2241 petition in the district of the petitioner’s confinement. *See Harrison v. Ollison*, 519 F.3d
20 952, 956 (9th Cir. 2008). Under the § 2255 escape hatch, “a federal prisoner may file a § 2241
21 petition if, and only if, the remedy under § 2255 is ‘inadequate or ineffective to test the legality of his
22 detention.’” *Marrero v. Ives*, 682 F.3d 1190, 1192 (9th Cir. 2012) (quoting *Stephens*, 464 F.3d at
23 897). In the Ninth Circuit, a remedy is not deemed “inadequate or ineffective” merely because §
24 2255’s gatekeeping provisions prevent the petitioner from filing a second or successive petition. *Ivy v.
25 Pontesso*, 328 F.3d 1057, 1059 (9th Cir. 2003); *accord Moore v. Reno*, 185 F.3d 1054, 1055 (9th Cir.
26 1999) (per curiam) (§ 2255 not inadequate or ineffective simply because the district court dismissed
27 the § 2255 motion as successive and court of appeals did not authorize a successive motion). Instead,
28 prior to 2023, § 2255 was deemed to provide an “inadequate and ineffective” remedy (and, thus,

1 permit a petitioner to proceed under Section 2241 in the district of confinement) when the petitioner:
 2 (1) makes a claim of actual innocence; and (2) has never had an “unobstructed procedural shot” at
 3 presenting the claim. *Harrison*, 519 F.3d at 959; *Stephens*, 464 F.3d at 898; *accord Marrero*, 682 F.3d
 4 at 1192. The petitioner bears the burden to show that a remedy under § 2255 is inadequate or
 5 ineffective. *Redfield v. United States*, 315 F.2d 76, 83 (9th Cir. 1963). If a petitioner fails to meet this
 6 burden, then his § 2241 petition must be dismissed for lack of jurisdiction. *Ivy*, 328 F.3d at 1060.

7 In June 2023, the Supreme Court held in *Jones v. Hendrix* that § 2255(e) only “preserves
 8 recourse to § 2241 in cases where unusual circumstances make it impossible or impracticable to seek
 9 relief in the sentencing court.” 599 U.S. 465, 478 (2023). The court noted that § 2255(h) specifies the
 10 two limited circumstances permitting a federal prisoner to bring a second or successive collateral
 11 attack on his sentence: (1) where new evidence clearly and convincingly shows no reasonable
 12 factfinder could find the movant guilty; and (2) a new rule of constitutional law, previously
 13 unavailable, could apply retroactively to the movant’s case. *See id.* at 480; 28 U.S.C. § 2255(h). In
 14 significantly narrowing the ambit of § 2241, the Court held that “[t]he inability of a prisoner with a
 15 statutory claim to satisfy those conditions does not mean that he can bring his claim in a habeas
 16 petition under the saving clause. It means that he cannot bring it at all.” *Jones*, 599 U.S. at 480.

17 Relatedly, a court of confinement lacks jurisdiction over a § 2241 petition where the petitioner
 18 files it before he files a § 2255 motion raising the same claims in the district of conviction. *See United*
 19 *States v. Pirro*, 104 F.3d 297, 299 (9th Cir. 1997) (noting that a contrary rule “would eviscerate our
 20 goal of judicial economy by engaging the attention of two courts on the same case at the same time”).

21 **Discussion and Analysis**

22 Petitioner fails to provide an adequate petition for writ of habeas corpus and fails to establish
 23 this Court possesses jurisdiction over his “escape hatch” claim.

24 Specifically, Petitioner fails to demonstrate “unusual circumstances” that “make it impossible
 25 or impracticable to seek relief in the sentencing court.” *Jones*, 599 U.S. at 478. The undersigned
 26 acknowledges that Petitioner’s claim for relief advanced pursuant to the Supreme Court’s 2024
 27 decision in *Erlinger* was not available until after he was convicted and sentenced and after the
 28 Eleventh Circuit had rejected his direct appeal. However, as in *Jones*, Petitioner’s inability previously

1 to raise his *Erlinger* claim to satisfy either of the § 2255(h) conditions does not mean that he can bring
 2 his claim in a habeas petition under the saving clause; instead, it means “that he cannot bring it at all.”
 3 *Jones*, 599 U.S. at 480.

4 With respect to his other claims for relief asserted in his original petition and supplements
 5 (Docs. 1, 15, 17), Petitioner does not argue and cannot demonstrate unusual circumstances exist (such
 6 as, for instance, his inability to advance his claims in the Northern District of Alabama) such that this
 7 Court may consider his § 2241 petition. As to the single claim in his original petition that his prior
 8 state law conviction for unlawful distribution of controlled substances did not qualify as an ACCA-
 9 eligible predicate “serious drug offense,” Petitioner did not seek relief on this ground in either his
 10 direct appeal or the still-pending § 2255 Action. *See Ivy*, 328 F.3d at 1060 (finding that failure to
 11 assert habeas claim either in the petitioner’s direct appeal or initial § 2255 motion such that claim was
 12 procedurally barred “does not mean that § 2255’s remedy was ‘inadequate or ineffective.’”). The
 13 other claims set forth in his supplements to the original petition in this Court all are claims before the
 14 district court in the Northern District of Alabama in the pending § 2255 Action.

15 Therefore, Petitioner’s § 2241 petition does not fit within the exception to the general bar
 16 against using § 2241 to collaterally attack a conviction or sentence imposed by a federal court and
 17 must be dismissed for lack of jurisdiction.

18 * * * * *

19 Had Petitioner not previously filed § 2255 motions in the Northern District of Alabama that are
 20 still pending, the undersigned could construe the petition here as a § 2255 motion and transfer it to that
 21 district (the only court to possibly have jurisdiction over Petitioner’s habeas claims). But since
 22 Petitioner still is litigating his pending claims in the § 2255 Action that are mostly identical to those
 23 asserted here, transfer would not be in the interests of justice because it would be futile. Accordingly,
 24 the undersigned will recommend that the petition be dismissed for lack of jurisdiction. *Cf. Miller v.*
Hambrick, 905 F.2d 259, 262 (9th Cir.1990) (under 28 U.S.C. § 1631, if a district court finds it lacks
 25 jurisdiction, it must transfer habeas corpus proceeding to the appropriate court when such transfer is in
 26 the interests of justice).

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1 **Conclusion and Recommendations**

2 Based on the foregoing, the undersigned RECOMMENDS that Petitioner's petition for writ of
3 habeas corpus be dismissed for lack of jurisdiction.

4 These Findings and Recommendations will be submitted to the U.S. District Judge assigned to
5 this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). **Within 21 days** after being served with
6 a copy of these Findings and Recommendations, any party may file written objections with the Court.
7 Local Rule 304(b). The document should be captioned, "Objections to Magistrate Judge's Findings
8 and Recommendations" and **shall not exceed 15 pages** without leave of Court and good cause shown.
9 The Court will not consider exhibits attached to the Objections. To the extent any party wishes to
10 refer to any exhibit(s), that party should reference the exhibit in the record by its CM/ECF document
11 and page number, when possible, or otherwise reference the exhibit with specificity. Any pages filed
12 in excess of the 15-page limitation may be disregarded by the District Judge when reviewing these
13 Findings and Recommendations under 28 U.S.C. § 636(b)(1)(C). A party's failure to file any
14 objections within the specified time may result in the waiver of certain rights on appeal. *Wilkerson v.*
15 *Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir.
16 1991)).

17 IT IS SO ORDERED.

18 Dated: June 16, 2025


19 UNITED STATES MAGISTRATE JUDGE

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